IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.12.2006

Coram

The Hon'ble Mr. Justice P.JYOTHIMANI

W.P.No.34826 of 2006
and
M.P.No.1 of 2006

1.C.Gopal
2.G.Shanthi
3.R.Gomathi
4.M.Ahilandeswari
5.P.Shanthi .. Petitioners

Vs

1.Tamil Nadu Co-operative State
Agriculture and Rural Development
Bank Ltd., represented by its
Special Officer, 79-80, Luz Church
Road, Mylapore, Chennai-4.

2.The Secretary to Government,
Co-operation, Food and Consumer
Protection Department,
Secretariat, Chennai-9.

3.The Registrar of Co-operative Societies/
Revisional Authority, Kilpauk,
Chennai-10. .. Respondents

Petition filed under Article 226 of the Constitution of India praying to issue a writ of Mandamus to direct the first respondent to implement the orders passed by the third respondent revisional authority in his proceedings No.42577/2005/sapa dated 12.09.2005 forthwith with service and monetary benefit as directed in the said order of the third respondent.

WEB COPY

For Petitioners .. Mr.N.S.Nandakumar

For Respondent .. Mr.D.Srinivasan, Govt. Advocate

https://hcservices.ecourts.gov.in/hcservices/

ORDER

The petitioners, who are all graduates and post graduates in various academic disciplines, having registered in the employment exchange, were appointed as Typists within the sanctioned strength. The orders of appointment were given on 01.06.1998 by the respondents and based on the policy of reservation apart from the list drawn from the employment exchange and the appointments were made within the sanctioned strength. It was after coming to know that the first respondent has issued a circular on 04.08.1998 inviting applications from eligible candidates in service for the post of Typists from the Regional Offices of the first respondent and Primary Co-operative Agricultural and Rural Development Banks, the petitioners have made a representation on 21.08.1998 seeking regularisation in their employment, for which, there was no reply.

2.The petitioners filed W.P.No.13998 of 1998, challenging the circular issued on 04.08.1998 and the same was dismissed on 09.09.1998 with a direction to the petitioners to file a revision under Section 153 of the Tamil Nadu Co-operative Societies Act (hereinafter referred to as 'the Act'). Accordingly, the petitioners have filed a revision on 14.09.1998 before the third respondent. The third respondent originally rejected the said revision on 25.09.1998 and thereafter, challenging the same, the petitioners have filed W.P.No.15818 of 1998. This Court, while disposing of the same by order dated 25.02.2005, has directed the third respondent, being the revisional authority to decide the revision petition filed by the petitioners dated 14.09.1998 on merit and in accordance with law, after giving opportunity to both the parties, within a period of six months from the date of receipt of a copy of the order. Thereafter, the revisional authority viz., the third respondent has considered the entire matter on merits and passed a detailed order on 12.09.2005, directing the first respondent to regularise the services of the petitioners from the date of the revised order viz., 12.09.2005 and also to pass consequential orders. To implement the said order of the third respondent, the present writ petition is filed by the petitioners.

3.However, the first respondent is stated to have filed further revision under Section 153 of the Act before the second respondent, challenging the order of the third respondent. Even though there is no order passed by the second respondent in the revision stated to have been filed under Section 153 of the Act, the petitioners have chosen to file the present writ petition for a direction to implement the order of the revisional authority viz., the third respondent dated 12.09.2005, which was passed under Section 153 of the Act, that too, as per the direction of this Court in W.P.No.15818 of 1998 dated 25.02.2005.

WEB COPY

https://hcservices.ecourts.gov.in/hcservices/

4.Mr.N.S.Nandakumar, learned counsel for the petitioners would submit that when once the third respondent, being a competent authority to invoke powers under Section 153 of the Act, has passed a final order, the first respondent ought not to have filed a further revision against the order of the third respondent to the Government. In view of the same, learned counsel for the petitioners would submit that it is the duty of the first respondent to implement the order of the third respondent. He has also submitted that even assuming that the first respondent can approach the Government, it can be only by way of review under Section 154 of the Act and that too, on a limited scope and a reference to the grounds of revision filed by the first respondent to the second respondent against the order of the third respondent, shows that it is not a review. Learned counsel for the petitioners would submit that the first respondent is bound to implement the order of the third respondent, which was passed under Section 153 of the Act.

5.On the other hand, Mr.D.Srinivasan, learned Government Advocate would submit that while it is true that when once the revisional authority under Section 153 of the Act either suo motu or on application takes up an application under the provisions of the Act, the Government will not have any further order of revision against such order and since the matter is pending before the Government, the petitioner can raise the said objection. In this regard, a reference is made to Section 153 of the Act, which reads as follows:

> *"Section 153: Revision: (1)The Registrar may of his own motion or on application, call for and examine the record of any officer subordinate to him or of the board or any officer of a registered society or of the competent authority constituted under sub section (3) of section 75 and the Government may, of their own motion or on application, call for and examine the record of the Registrar, in respect of any proceedings under this Act or the rules or the by-laws not being a proceeding in respect of which an appeal to the Tribunal is provided by sub-section (1) of Section 152 to satisfy himself or themselves as to the regularity of such proceedings, or the correctness, legality or propriety of any decision passed or order made therein; and, if , in any case, it appears to the Registrar or the Government that any such decision or order should be modified, annulled, reversed or remitted for reconsideration, he or they may pass orders accordingly:*

WEB COPY

https://hcservices.ecourts.gov.in/hcservices/

*Provided that every application to the Registrar or the Government for the exercise of the powers under this section shall be preferred within ninety days from the date on which the proceedings, decision or order to which the application relates was communicated to the applicant.*

*(2)No order prejudicial to any person shall be passed under sub-section (1) unless such person has been given an opportunity of making his representations.*

*(3)The Registrar or the Government, as the case may be, may suspend the execution of the decision or order pending the exercise of his or their power under sub-section (1) in respect thereof.*

*(4)The Registrar or the Government may award costs in any proceedings under this Section to be paid either out of the funds of the society or by such party to the application for revision as the Registrar or the Government may deem fit.*

6.A reading of Section 153 of the Act shows that the Registrar being the revisional authority has a jurisdiction to take up the revision either suo motu or on application and simultaneously, the Government has also got the revisional power either suo motu or on application. When once the Registrar has taken up the revisional power under Section 153 of the Act on the application filed by the petitioner, there is no question of the Government taking up the revisional power subsequently, especially in the circumstances that the third respondent being the revisional authority competent under Section 153 of the Act has already passed a detailed order dated 12.09.2005. It is also relevant to point out that the third respondent has passed the order not only as per the power under Section 153 of the Act but also as per the direction issued by this court dated 25.02.1995 in W.P.No.15818 of 1998. In view of the same, a reading of Section 153 of the Act categorically shows that when once the third respondent, being a competent authority, passes a final order on revision under Section 153 of the Act, the Government cannot invoke the power of revision. In this case, it is unfortunate that the first respondent, who has suffered a final order on revision under the third respondent, has chosen to file a further revision to the Government which is not called for under the provisions of Section 153 of the Act. The only right which may be available to the first respondent is the right of review under Section 154 of the Act. As it is stated earlier that the right of review is only on a limited scope of finding of new facts etc., and a reading of the grounds of revision filed by the first respondent

WEB COPY

https://hcservices.ecourts.gov.in/hcservices/

to the second respondent shows that it is a regular revision and therefore, such a revision is not permissible under section 153 of the Act.

7.In view of the same, I have no hesitation to come to the conclusion that it is the duty of the first respondent to implement the order of the third respondent dated 12.09.2005 passed under Section 153 of the Act, which has become final. In view of the same, the writ petition stands allowed and there will be a direction to the first respondent to implement the order of the third respondent dated 12.09.2005 and pass consequential order forthwith. No costs. Consequently, connected M.P is closed.

mmi

Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

To

1.The Special Officer,
Tamil Nadu Co-operative State
Agriculture and Rural Development
Bank Ltd., 79-80,
Luz Church Road, Mylapore, Chennai-4.

2.The Secretary to Government,
Co-operation, Food and Consumer
Protection Department,
Secretariat, Chennai-9.

3.The Registrar of Co-operative Societies/
Revisional Authority, Kilpauk,
Chennai-10.

1 cc to Mr.N.S.Nandakumar, Advocate, SR.62323

rl (co)

dv/20.12.06

W.P.No.34826 of 2006

WEB COPY

https://hcservices.ecourts.gov.in/hcservices/